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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/808,242 | 03/24/2004 | Sebastian Sommer | 22882 | 5015 |

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| EXAMINER | |
|---|---|
| MAKI, STEVEN D | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1733 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| **Advisory Action Before the Filing of an Appeal Brief** | **Application No.** 10/808,242 | **Applicant(s)** SOMMER ET AL. | |
|---|---|---|---|
| | **Examiner** Steven D. Maki | **Art Unit** 1733 | |

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 28 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *see advisory action attachment*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-17*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory action attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Advisory Action Attachment

The new issue is the amendment to the specification which contains the instruction: "Rewrite the paragraph running from line 5 to line 6". The rewritten paragraph *consists* of an "amended step (d)". Page 3 of the specification contains a paragraph beginning at line 6 and ending at line 17. Changing lines 5 and 6 confusingly inserts "amended step (d)" at a location before the description of steps (a) - (d). Changing lines 5-17 to only the "amended step (d)" removes the description of steps (a), (b) and (c). The amended description of amended step (d) per se does not raise a new issue. However, the new issue is created by the wording of the instruction. It appears that applicant intended to amend the paragraph at page 3 lines 6-17 by replacing step (d) at lines 16-17 with step (d) as on page 2 of the amendment filed 8-28-07 *instead of* rewriting "the paragraph running from line 5 to line 6" as the three line amended step (d). The changes to the claims do not raise new issues. If the amendment to page 3 of the specification is clarified and the changes to the claims filed 8-28-07 are presented in another after final amendment, which does not make additional changes raising new issues, then such an after final amendment would be entered.

With respect to 112 first paragraph, claim 1 recites "maximum bonding as defined in DIN 53815". Applicant apparently agrees that DIN 53815 fails to discuss bonding.

With respect to 112 second paragraph, applicant argues and examiner agrees that measurement of tensile strength is not difficult for one of ordinary skill in the art. Examiner also agrees that calculation of 50% maximum tensile strength is not difficult.

However, the issue is the scope and meaning of "maximum bonding" instead of "how to determine maximum tensile strength and then calculate 50% maximum tensile strength" In order to determine "maximum tensile strength", one of ordinary skill in the art must know the definition of "maximum bonding".

With respect to 112 second paragraph, applicant comments "... when the spunbond filaments are bonded together at a maximum number of intersections, basically at every crossing" (page 7 of response filed 8-28-07). Applicant further comments "... maximum bonding, which means that the filaments forming the spunbond are fused together at virtually all crossings..." (page 7 of response filed 8-28-07, emphasis added). Arguments based on "bonding at every crossing" or "fused together at virtually all crossings" are not persuasive since "maximum bonding" is neither defined in the claims nor specification as being "bonding at every crossing" or "fused together at virtually all crossings". Applicant also refers to "the pressure and/or temperature of the calender roll". However, claim 1 fails to specify that maximum bonding is determined by changing the pressure and temperature of a calender roll. Applicant's apparent argument that claim 1 is limited to determining maximum bonding by varying the temperature and/or pressure of the calender roll is inconsistent with claim 1's broad use of the term "bonding" and the failure to mention a "calender roll" in claim 1. In claim 1, "bonding" is generic to other types of bonding (e.g. through air bonding, solvent bonding, adhesive bonding, etc).

Applicant argues that Anderson does not teach a prebonding step. This argument is not persuasive since Anderson discloses bonding (e.g. thermal point bonding) the spunbond to improve strength. See col. 4 line 49+ and col. 8 lines 17-23.

Applicant argues that Anderson does not suggest a wetting agent. This argument is not persuasive since Anderson incorporates Evans by reference (col. 13 lines 59-63) wherein Evans suggests applying a wetting agent to a single fibrous web (col. 16 lines 23-42).

Applicant argues that Skoog does not carefully control prebonding step to achieve at least 50% of maximum tensile strength. This argument is not persuasive since Skoog provides specific disclosure as to how to bond the continuous filament web (spunbond web) at columns 7 and 8.

Applicant argues that a wetting agent is not described by Skoog. More properly, Evans motivates one of ordinary skill in the art to apply a wetting agent to the continuous filament web (spunbond web) of Skoog to improve ease of processing (hydroentangling) during Skoog's step of hydroentangling.

Applicant argues that Evans does not suggest applying the wetting agent "... should be applied to a meticulously prebonded layer and then hydrodynamically bonding to another layer of hydrophilic fibers" (page 9 of after final filed 8-28-07). This argument is not persuasive since Skoog teaches forming a prebonded layer (spunbond web) and then hydroentangling and Evans teaches applying a wetting agent before hydroentangling.

Applicant argues that nothing in the art suggests restricting the tensile strength. This argument is not understood since claim 1 recites an open ended range "tensile strength of at least 50% ... (emphasis added) instead of restricted range. In any event, claim 1 fails to require a tensile strength different from that obtained by the bonding described by Skoog et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steven D. Maki
September 24, 2007